

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF  
TENNESSEE WESTERN DIVISION

---

STEPHEN WIGLEY and  
CAROLYN WIGLEY

Plaintiffs

VS.

No. 2:15-cv-02473-STA-cgc

AMERICAN EQUITY MORTGAGE, INC  
AND BANK OF NEW YORK MELLON, AS TRUSTEE  
FOR CERTIFICATE HOLDERS OF THE CWABS, ASSET-BACKED  
CERTIFICATES 2004-7,

Defendants

RESPONSE TO BANK OF NEW YORK MELLON'S MOTION TO DISMISS

COMES NOW THE PLAINTIFF, by and through undersigned counsel and  
pursuant to FRCP 12 and files herewith his Response to Bank of New York's  
Motion to Dismiss and in support thereof states as follows:

1. Plaintiff incorporates the Memorandum in Support of  
Response to Bank of New York's Motion to Dismiss filed contemporaneously  
herewith as if fully set forth herein.

WHEREFORE PREMISES CONSIDERED, Plaintiff urges the Court to  
find that that US Plaintiffs have plead sufficient facts to plausibly sustain a  
viable legal theory. Accordingly, the Court should deny Bank of New York  
Mellon's Motion.

Respectfully Submitted,

/s/ DRAYTON D. BERKLEY  
DRAYTON D. BERKLEY, ESQ.  
(BPR 022601)  
119 South Main, Suite 500

Memphis, Tennessee 38103  
Telephone: (901) 322-8706  
Fax: (901) 881-0316  
e-mail: [attorneyberkley@gmail.com](mailto:attorneyberkley@gmail.com)

CERTIFICATE OF SERVICE

The undersigned hereby certifies a copy of the foregoing has been served upon counsel for the defendants in the U.S. Mail, first class postage paid, or e-mail and properly addressed or hand-delivery to:

Mr. Kavita Shelat, Esq.  
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC  
2000 First Tennessee Building  
165 Madison Avenue  
Memphis, TN 38103  
Attorneys for Bank of New York

This the 13th day of October 2015.

/s/ DRAYTON D. BERKLEY  
DRAYTON D. BERKLEY, ESQ.